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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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|-------------------------------|---|----------------------------------|
| In the Matter of              | ) |                                  |
|                               | ) |                                  |
| Nelson M. and Karen E. Wilson | ) | File No.: EB-FIELDWR-13-00009968 |
| Licensee of Station KBGN      | ) |                                  |
|                               | ) | NOV No.: V201332920013           |
|                               | ) |                                  |
| Caldwell, Idaho               | ) | Facility ID: 48249               |

**NOTICE OF VIOLATION**

**Released: August 1, 2013**

By the Resident Agent, Portland Resident Agent Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to Nelson M. and Karen E. Wilson (Wilsons), licensee of radio station KBGN in Caldwell, Idaho. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On July 17, 2013, an agent of the Enforcement Bureau's Portland Office inspected radio station KBGN located at 3303 E. Chicago, Caldwell, Idaho, and observed the following violations:

- a. 47 C.F.R. § 11.21(a): "...If a state's emergency alert system is capable of initiating EAS messages formatted in the Common Alerting Protocol (CAP), its State EAS Plan must include specific and detailed information describing how such messages will be aggregated and distributed to EAS Participants within the state, including the monitoring requirements associated with distributing such messages." During the inspection conducted on July 17, 2013, the inspecting agent noted that KBGN's State Plan was outdated and did not contain information concerning the Common Alert Protocol.
- b. 47 C.F.R. § 73.3526(e)(12): "For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment...” During the inspection conducted on July 17, 2013, the agent observed that KGBN did not have the 2<sup>nd</sup> Quarter 2013 Issues and Programs lists in the station’s Public Inspection File.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. The inspection conducted on July 17, 2013, revealed that KGBN did not have current EAS State Plan concerning the Common Alert Protocol (CAP). In addition, KGBN did not have the 2<sup>nd</sup> Quarter Issues and Programs lists in the Public Inspection File.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Wilsons, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

5. In accordance with Section 1.16 of the Rules, we direct Wilsons to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by the Wilsons, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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**Federal Communications Commission**

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Federal Communications Commission  
Portland Resident Agent Office  
PO Box 61469  
Vancouver, WA 98666-1469

7. This Notice shall be sent to Nelson M. and Karen E. Wilson at the address of record.

8. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Binh Nguyen  
Resident Agent  
Portland Resident Agent Office  
Western Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).